

Special Immigrant Juvenile Basics

- **What is SIJ?**
 - Special Immigrant Juvenile Classification (SIJ)
 - Partnership between state courts and federal law to protect children who are abused, neglected, and abandoned
 - SIJ procedure
 - Before the child is eligible to file I-360 with USCIS, a state court judge needs to make certain determinations on the issue of SIJ
 - MI state law
 - The state court case needs to be adjudicated before the child turns 18 years old
 - Some judges will sign orders for special determinations *nunc pro tunc* if they adjudicated other aspects of the case prior to the child's 18th birthday
 - For example, if the judge granted a temporary guardianship and then the child turned 18, the judge has discretion to sign the order for special determinations *nunc pro tunc*
- **SIJ statute—8 USC 1101(a)(27)(J) defines Special Immigrant Juvenile**
 - The child has been declared dependent on a juvenile court or is in the custody of an individual appointed by a juvenile court;
 - The child's reunification with one or both of his parents is not viable due to abuse, abandonment, neglect, or a similar basis found under State law; and
 - The child's best interest would not be served by returning to his country of origin.
- **MI statutes for abuse, abandonment, and neglect**
 - Even if the conduct/behavior was considered normal/typical in client's home country, we must determine whether it rises to the level of abuse/abandonment/neglect under MI law
 - Evidentiary standard for SIJ hearings is preponderance of the evidence. *In re Velasquez*, ___ Mich App ___ (2022) (Docket No. 360057); slip op at 6.
 - **Abuse**
 - MCL §§§ 722.622(g), 722.602(b)
 - **Neglect**
 - MCL §§ 722.602(d) and 722.622(k)
 - **Abandonment**
 - MCL § 712A.2(b)(1)

- MCL § 712A.19(b)(3)(a)(ii)
 - MCL § 722.1102(a)
 - **Similar basis under state law**
 - Still in development under MI law but could include the death of one or both parents, or another reason that reunification is not viable
- **How to screen for SIJ?**
 - Questions to screen clients for SIJ:
 - How was your relationship with your mom and dad?
 - How would your mom and dad treat you if you misbehaved?
 - Did you feel safe living with your mom and dad?
 - Common fact patterns for abuse/abandonment/neglect (remember, there is often a lot of overlap)
 - **Abuse:** physical/verbal/emotional abuse, name calling, discipline/punishment, parent forced child to work, alcohol abuse
 - **Neglect:** work from a young age, use of dangerous tools/equipment, insufficient food/clothing, poor living conditions, child never attended school or had to stop attending, forced into caretaker role for younger siblings, parent failed to protect the child from other people, alcohol abuse, parent not working, lack of access to medical care
 - **Abandonment:** child never met the parent or has not communicated with the parent in a substantial amount of time, did not have any/significant communication, did not receive any/significant financial/emotional support in upbringing
- **SIJ cases in state court—my client is SIJ eligible, now what?**
 - State court—determine what type of case to file:
 - Guardianship
 - Custody
 - Paternity/custody
 - Divorce
 - Adoption
 - File I-360 w/ USCIS (before child turns 21)
 - Include signed orders from state court